

Amend Section 11-400 to read:

11-400 AFDC-FOSTER CARE RATES - DEFINITIONS

11-400

Definitions. For purposes of the Foster Care program, the following definitions shall apply wherever the terms are used throughout Chapter 11-400: (Continued)

- f. (7) Fiscal Audit - An audit conducted by the Department to determine whether the data on allowable and reasonable costs submitted by a group home or foster family agency is accurate, or a financial audit as specified in MPP Section 11-400f.(4). (Continued)

- m. (4) Management Decision - The evaluation by the Department of a provider's Office of Management and Budget (OMB) Circular A-133 financial audit report as specified in OMB Circular A-133 Subsection .405. (Continued)

- r. (3) RCL Reduction Rate Payment Offset – An involuntary collection procedure for recovering a sustained overpayment or a self-reported overpayment in a rate application from a group home provider and/or foster family agency who does not enter into a repayment agreement with the Department or a group home provider and/or foster family agency who has three outstanding payments on a repayment agreement prior to the sustained overpayment being repaid.

- (4) RCL Reduction – A reduction to a group home provider's previously approved RCL resulting from: (A) a voluntary program change application in which the provider requests an RCL decrease; (B) a provisional rate program audit in which the group home failed to maintain the approved RCL for the specified audit period; or (C) a nonprovisional program audit in which the provider either failed corrective action or did not provide corrective action as described in MPP Section 11-402.55.

- (45) (Continued)

- (56) (Continued)

- (67) (Continued)

- (78) (Continued)

- s. (Continued)

Authority Cited: Sections 10553, 10554, 11460(b), 11462(i) and (j), 11462.06, 11466.1, 11466.21, 11466.22, and 14680, Welfare and Institutions Code and Chapter 1294, Statutes of 1989, Section 23.

Reference: Sections 1200, 1250, 1502(a)(1) and (a)(8), 1502.4, 1502.4(a)(1), (a)(2)(A), and (b), and 1530.8, Health and Safety Code; Section 3353, California Labor Code; Sections 4096, 4096(e)(2), 4096.5, 5600.3(a)(2), 5777, 5778, 10852, 11226, 11228, 11230, 11231, 11232, 11233, 11234, 11235, 11236, 11400(h), 11402.5(a), 11460, 11461.1, 11462, 11462(a)(1), 11462.01(a)(2)(A)(i) and (ii), 11462.01(a)(2)(B)(i), 11462.03, 11466.1, 11466.2, 11466.21, 11466.22, 11466.3, 11466.31, 11466.33, 11466.34, 11467.1 (Assembly Bill 1197, Chapter 1088, Statutes of 1993), 11468, 11468.6, 14680, 16522(a), (b), and (c), and 18350, Welfare and Institutions Code; Public Laws 98-502 and 104-156; Assembly Bill 1575, Chapter 728, Statutes of 1997; The Classification of Group Home Program Under the Standardized Schedule of Rate System Report, August 30, 1989, and Title 8, California Code of Regulations, Section 11050; and federal Office of Management and Budget (OMB) Circular A-122, Attachment B, Paragraph 11, Depreciation and Use Allowances, and Paragraph 46, Rental Costs, dated June 1, 1998, and Cost Principles for Non-Profit Organizations; OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations; Government Auditing Standards of the Comptroller General of the United States (Yellow Book); and Department of Health and Human Services, Administration for Children and Families letter dated April 19, 2001.

Amend Section 11-402 to read:

11-402 GROUP HOME RATE SETTING (Continued)

11-402

.6 Overpayments (Continued)

.63 Overpayments shall be determined by: (Continued)

.636 The Department determining through a management decision, that the agencies operating group homes or foster family agency programs expended AFDC-FC program funds on unallowable costs.

(a) Where the Department has determined in a management decision that a group home provider or foster family agency has incurred unallowable costs resulting from a fiscal audit, the Department shall recover the unallowable costs. If the cost occurred during the same time period as an overpayment resulting from a self-reported overpayment or program audit as specified in MPP Section 11-402.6, then only the greater of the amounts of the overpayment or the unallowable cost is subject to recovery. (Continued)

.66 Overpayment Collection (Continued)

.664 (Continued)

(d) The Department shall collect overpayments under the mandatory repayment schedule by ~~the use of an RCL reduction in accordance with Section 11-400r.(3)~~ offsetting against current group home provider rate reimbursement payments under the AFDC-FC program in accordance with MPP Section 11-402.66.

(e) The Department shall issue, to a provider and the counties, a rate letter that indicates the amount of the ~~RCL reduction~~ offset, which will be applied to the monthly overpayment amount including interest and the amount of the actual rate reimbursement to the group home provider during the period the mandatory repayment schedule will be in effect. (Continued)

.665 (Continued)

(a) In addition to the monthly ~~RCL~~ payment reduction amount subject to Section 11-402.664, fifty percent of any California Necessities Index (CNI) increases and any adjustments to the Standardized Schedule of Rates in the AFDC-FC program shall be withheld and applied towards a

group home provider overpayment until a mandatory repayment schedule recovers any outstanding overpayments. (Continued)

.8 Cost Reporting (Continued)

.82 Allowable Costs

Reported In order to be eligible for AFDC-FC reimbursement, all costs shall be actual allowable and reasonable as defined in federal statutes and regulations including 45 CFR Part 74, 45 CFR Part 95, and 45 CFR Part 1356, Office of Management and Budget (OMB) Circular A-122, and MPP Section 11-405, in addition to other costs listed in MPP Sections 11-402.822 and .823. (Continued)

Authority Cited: Sections 10553, 10553(e), 10554, 11460(b), 11462, 11462(j), 11462.06, 11466.1, 11466.2, and 11466.21, Welfare and Institutions Code and Chapter 1294, Statutes of 1989, Section 23.

Reference: Sections 10553 and 10554, Welfare and Institutions Code Sections 1502(a)(1), 1502.4(b), and 1530.8, Health and Safety Code; Section 3353, California Labor Code; Sections 366, 4096.5, 4096.5(a), (c), (c)(1), and (2), and (d), 10852, 11226, 11228, 11230, 11231, 11232, 11233, 11235, 11236, 11400(h), 11402.5(a), 11460, 11462, 11462(a)(1), (a)(2) and (a)(3), 11462(d), 11462(e)(3), 11462(g)(14), 11462(i)(1)(B), 11462.01(a), (a)(1), (2), and (3), 11462.01(b), 11462.01(d), (d)(1) and (2), 11462.01(e), 11462.01(f)(1), (2), and (3), 11462.01(g)(1), (2), (3), and (4), 11462.01(h), 11462.01(i)(1), (2), and (3), 11462.01(j), 11462.03, 11466.1, 11466.2, 11466.3, 11466.4, 11466.22, 11466.25, 11466.31, 11466.32, 11466.33, 11466.34, 11466.35, 11466.36, 11467, 11467.1 (Assembly Bill 1197, Chapter 1088, Statutes of 1993), 11468 through 11468.6, 16522(a) and (b), 16501.1(d), and 18350, Welfare and Institutions Code; Sections 1502(a)(1) and (a)(8), Health and Safety Code; Assembly Bill 1575, Chapter 728, Statutes of 1997; Public Laws 98-502 and 104-156; The Classification of Group Home Programs Under the Standardized Schedule of Rate System Report, August 30, 1989; Title 8, California Code of Regulations, Section 11050, Title 11, California Code of Regulations, Section 999.1(a); and Title 1, Division 2, Section 5233, California Corporations Code; and federal Office of Management and Budget (OMB) Circular A-122, Attachment B, Paragraph 11, Depreciation and Use Allowances, and Paragraph 46, Rental Costs dated June 1, 1998, and Cost Principles for Non-Profit Organizations; OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations; Government Auditing Standards of the Comptroller General of the United States (Yellow Book); and Department of Health and Human Services, Administration for Children and Families letter dated April 19, 2001.

Amend Section 11-403 to read:

11-403 FOSTER FAMILY AGENCY RATES (Continued)

11-403

(c) Allowable Costs

- (1) In order to be ~~claimed~~ eligible for AFDC-FC reimbursement, all costs shall be both actual allowable and reasonable as defined in federal statutes and regulations including 45 CFR Part 74, ~~and 45 CFR Part 95,~~ 45 CFR Part 1356, and MPP Sections 11-402.8 and 11-405 as applicable. (Continued)

(f) Rate Request Process

(1) Rate Request Submission (Continued)

(D) For fiscal years subsequent to 1985/86, a complete rate request is due April 1.

1. A ~~late complete~~ rate request ~~shall not be accepted~~ submitted after July 1 from an existing foster family agency after July 1 shall be subject to the requirements of Section 11-403(f)(3).
2. Foster family agencies which do not submit a complete rate request by July 1 shall not have a rate set for the new fiscal year and shall not receive AFDC-FC funds after September 1, until they have complied with the requirements for a complete rate request submission as specified in Section 11-403(f)(1). (Continued)

(2) Effective Date of Rates (Continued)

- (B) Effective dates of rates for foster family agencies which submit a late rate request without good cause shall be established as follows: (Continued)
 3. If the rate request is submitted from two months and one day ~~to three months late~~ or later, the effective date will be October 1. (Continued)

(3) Rate Reestablishment

- (A) A rate reestablishment is a process to reestablish a foster family agency program rate that could not be set as specified in Section 11-403(f)(1)(D)2.

1. The effective date of the complete rate request submitted after July 1 shall be October 1 or the date of the Department's written notification of reestablishment of the rate to the foster family agency, whichever is later.
2. The rate shall be set, based on the lesser of:
 - (i) the provider's rate for the prior fiscal year, or
 - (ii) the Foster Family Agency Schedule of Rates for the current fiscal year.

(g) (Continued)

(j) Overpayments

- (1) Overpayment policies for foster family agencies shall be as specified in Section 11-402.86. (Continued)

Authority Cited: Sections 10553, ~~and~~ 10554, 11460(b), 11463, and 11466.21, Welfare and Institutions Code.

Reference: Sections 11468, 11463, 11466.21, 11466.22, 11466.24, and 11468.2, Welfare and Institutions Code; Public Laws 98-502 and 104-156; Office of Management and Budget (OMB) Circular A-122, Cost Principles for Non-Profit Organizations; OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations; Government Auditing Standards of the Comptroller General of the United States (Yellow Book); and Department of Health and Human Services, Administration for Children and Families letter dated April 19, 2001.

Amend Section 11-405 to read:

11-405 FISCAL AND FINANCIAL AUDITS

11-405

.1 Fiscal Audits

.11 ~~Group home and foster family agency~~ fiscal audits shall be performed by the Department, its agents, ~~or by an audit agency of the federal government,~~ certified public accountants and/or external audit organizations, or a state-licensed public accountant. (Continued)

.112 ~~A~~Group home programs and foster family agencies shall maintain, at a minimum, the following documentation, as appropriate, to support AFDC-FC program expenditures for a period of not less than five years: (Continued)

.13 ~~Group Home Payroll and Fringe Benefit Report consists of the following:~~ Other cost categories as enumerated in Office of Management and Budget (OMB) Circular A-122, Cost Principles for Non-Profit Organizations, Attachment B. (Continued)

.136 Other payroll and fringe benefit costs. (Continued)

.2 Financial Audits

.21 Audit Report Requirements

To be accepted by the Department ~~for ratesetting purposes,~~ a financial audit report shall meet the following requirements: (Continued)

.213 The audit shall be conducted according to ~~generally accepted auditing standards applicable to entities organized and operated on a nonprofit basis~~ the Government Auditing Standards issued by the Comptroller General of the United States [Generally Accepted Government Auditing Standards (GAGAS)].

(a) Audits shall be conducted according to ~~the~~ Government Auditing Standards ~~of~~ issued by the Comptroller General of the United States, ~~for financial statement audits~~ often referred to as generally accepted government auditing standards (GAGAS) and financial accounting standards applicable to entities organized and operated on a nonprofit basis.

(b) ~~In meeting the requirements of Subsection (a) above, corporations may have audits conducted according to the standards established by the federal Office of Management and Budget (OMB) Circular A-133, either voluntarily or to meet the requirements of other government agencies.~~

For those corporations who expend \$300,000 or more in combined federal funds for all of its programs and activities during the corporation's fiscal year, the audit must be conducted under the standards contained in OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations including, but not limited to:

- (1) The audit report shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the most recent financial audit period, unless agreed to in advance.
- (2) Corporations shall submit one copy of the complete reporting package to the Foster Care Audits Branch.
- (3) In addition to MPP Section 11-405.213(b)(2), corporations shall submit one copy of the audit report with the rate application package in accordance with MPP Sections 11-402.364 and 11-403(f). (Continued)

.215 All audits pursuant to MPP Section 11-405.213, shall incorporate compliance testing in accordance with the OMB Circular A-133 Compliance Supplement, including the Department of Health and Human Services Supplement for Foster Care - Title IV-E funds.

.2156 (Continued)

.2167 Financial information shall be reported in a format consistent with generally accepted accounting principles as established by the Financial Accounting Standards Board, with generally accepted government auditing standards the Government Auditing Standards issued by the Comptroller General of the United States (GAGAS), and, if applicable, with federal OMB Circular A-133 as required under MPP Section 11-405.213(b).

.2178 A provider who submits an audit report which does not meet the Department's requirements set out in MPP Sections 11-405.211 through ~~11-405.2167~~ will be granted 30 days to correct any deficiencies unless the Department determines that circumstances beyond the control of the provider exist to grant a longer period.

.2189 A provider who does not submit an acceptable audit report by the end of the period specified in MPP Section 11-405.2178 above shall be subject to rate termination under MPP Section 11-402.393.

.22 Responsibilities

Specific responsibilities for group home and foster family agency corporations and the Department are delineated under OMB Circular A-133.

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These responsibilities include, but are not limited to:

.221 Corporation Responsibilities - OMB Circular A-133, Subpart C, Section .300

- (a) The corporation shall maintain internal control over federal funds to ensure compliance with laws and regulations governing these funds. (Section .300)
- (b) The corporation shall prepare a schedule of expenditures of federal funds received for the fiscal period covering the corporation's financial statement. (Section .310)
- (c) The corporation shall prepare a financial statement that reflects its financial position for its most recent fiscal year. (Section .310)
- (d) The corporation is responsible for follow-up and corrective action on all audit findings. (Section .315)
- (e) The corporation shall comply with audit date collection, audit report submission, and the audit reporting package requirements under OMB Circular A-133. (Section .320)

.222 Department Responsibilities - OMB Circular A-133, Subpart D, Section .400

- (a) The Department shall issue management decisions on audit findings within six months of receipt of the audit report. The management decision shall clearly state whether or not the audit finding is sustained, the reasons for the decision, and the expected corporation action to repay disallowed costs, make financial adjustments, or take other action. (Section .405)
- (b) The Department shall establish an appeal process for management decisions. (Section .405)

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.223 (Continued)

.24 Appeal Process for Audit Management Decisions

Management decisions on audit findings pursuant to audits conducted under MPP Section 11-405.213 that result in disallowed costs may be appealed by filing a request for a formal hearing as follows:

- .241 The request for hearing shall be filed no later than 30 days after the date of receipt of the Department's management decision. If a request for hearing is not filed within the 30-day period provided, the Department's management decision shall be final.
- .242 The request for hearing and Statement of Disputed Management Decisions on Audit Findings shall be submitted via personal delivery or certified mail, return receipt requested, to the office of hearings specified in the management decision. At the same time, a copy of the request for hearing shall be mailed via certified mail, return receipt requested, to the Department.
- .243 The Department shall not consider any documents relevant to the disputed management decisions which are not made available by the date the group home or foster family agency corporation requests a hearing.
- .244 The Department shall conduct a hearing on the disputed management decision within 60 days of receipt of the request for hearing.
- .245 The standard of proof shall be the preponderance of the evidence. The burden of proof shall be on the Department to support its management decision.
- .246 The administrative record shall include the supporting documentation submitted with the request for hearing, the Department's written response to the appeal, the Department's exhibits, all applicable laws, regulations and procedures, and those matters of which the hearing officer takes judicial notice. When an oral formal hearing is conducted, evidence received at that hearing will also be included in the administrative record.
- .247 The hearing shall be conducted in accordance with MPP Sections 11-430.5 through .69.
- .248 The hearing officer shall issue the proposed decision within 45 days of the close of the hearing.
- .249 The Director shall adopt the proposed decision within 45 days of the issuance of the proposed decision, or shall reject or adopt a modified decision within 100 days of the issuance of the proposed decision. If the Director takes no action on the proposed decision within the prescribed time, the proposed decision shall take effect by operation of law.

Authority Cited: Sections 10553, 10554, ~~and~~ 11460(b), 11460.1, and 11466.21, Welfare and Institutions Code; and Health and Safety Code Section 1559.125.

Reference: Sections 11465 and 11468, Welfare and Institutions Code; Public Laws 98-502 and 104-156; Office of Management and Budget (OMB) Circular A-122, Cost Principles for Non-Profit Organizations; OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations; Government Auditing Standards of the Comptroller General of the United States (Yellow Book); and Department of Health and Human Services, Administration for Children and Families letter dated April 19, 2001.